

U.S. Patent Application Serial No. 09/725,314
Response dated November 12, 2003
Reply to OA of August 12, 2003

REMARKS

Claims 7 - 15 have been canceled without prejudice or disclaimer.

Claims 1, 3, 5 and 6 have been amended, and claim 16 has been added in order to more particularly point out, and distinctly claim the subject matter to which the applicants regard as their invention. The applicants respectfully submit that no new matter has been added. It is believed that this Amendment is fully responsive to the Office Action dated August 12, 2003.

The rejection of claims 1 - 6 under 35 USC §112, found in the previous Office Action, is overcome, and the rejection is removed. The applicants thank the Examiner for withdrawing this rejection.

Also, the applicants thank the Examiner now indicating that claim 5 would be allowable if rewritten in independent form including all of the limitations of claim 1. Accordingly, claim 5 has been amended herein in allowable form.

It is respectfully noted that claim 6, depending from claim 5, should also be allowable. Therefore, claim 6 has been amended in order to depend solely from claim 5, and has added claim 16 in order to further prosecute claim 6 depending from claim 4.

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The Examiner has indicated that a complete reply to this Office Action requires that claims 7-15 be cancelled. Accordingly, this Response includes the cancellation of claims 7 - 15 without prejudice or disclaimer.

As to the merits of this case, claims 1 and 2 are rejected under 35 USC §102(b) as being anticipated by Mauer et al. (U.S. Patent No. 4,360,982). The applicants respectfully request reconsideration of this rejection.

In paragraph 8 of the present Office Action, the Examiner comments on arguments presented in the response to the previous Office Action. In paragraph 8, the Examiner again discusses the inherent resilient properties of steel. Also, the Examiner comments on the "gap" language added to claim 1 in the response to the previous Office Action.

In view of the disclosure of Maurer et al. and the Examiner's comments and position, the applicants have amended claim 1 in order to remove the "gap" language, and to add the feature of claim 2. Accordingly, claim 2 has been canceled, and claim 3 has been amended in order to depend from claim 1.

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Claim 2 defines the bucket tooth as having "one face side", which is positioned on the bucket lip side, which becomes a concave face during action of the axial force fluctuation absorbing means. The bucket tooth of Maurer et al. does not act in such a manner. A concave face in the alleged "one face side" of the bucket tooth of Maurer et al. never occurs. The alleged "one face side" could have a convex face due to the force of bolt (65), and the "one face side" could be a planar face; however it does not appear that a concave face would ever occur.

In view of the above, the applicants respectfully submit that not all of the applicants' claimed elements or features are found in exactly the same situation and united in the same way to perform the identical function in the Maurer et al. apparatus. Thus, there can be no anticipation of the applicants' claimed invention under 35 USC §102(b) based on the Maurer et al. reference.

In view of the above, the withdrawal of the outstanding anticipation rejection under 35 USC §102(b) based on Maurer et al. (U.S. Patent No. 4,360,982) is in order, and is therefore respectfully solicited.

As to the outstanding obviousness rejections, first, claim 3 is rejected under 35 USC §103(a) as being unpatentable over Maurer et al. The applicants respectfully request reconsideration of this rejection.

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The Examiner alleges that Maurer discloses the claimed invention, as discussed above, except for the amount of warp and that it would have been obvious to provide a warp of between 2 mm/m to 15 mm/m, since the warp is dependent upon the force applied.

It is respectfully submitted that claim 3 depends on claim 1, and further limits the scope of claim 1. Thus, at least for the reasons discussed above with respect to the deficiencies in the teachings of Maurer in fully meeting the applicants' claimed invention are fully applicable in traversing the outstanding rejection of claim 3, dependent on claim 1, based on the teachings of Maurer.

Accordingly, the withdrawal of the outstanding obviousness rejection under 35 USC §103(a) based on Maurer et al. is in order, and is therefore respectfully solicited.

Secondly, claims 4 - 6 are rejected under 35 USC §103(a) as being unpatentable over Maurer et al. in view of Rose et al. (U.S. Patent No. 4,958,970). The applicants respectfully request reconsideration of this rejection.

The Examiner recites the same reasons for rejection as recited in the previous Office Action. It is respectfully submitted that Rose et al. does not provide the disclosure found to be deficient in the rejection of claim 1 in view of Maurer et al., which is discussed above. In view

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of the dependency of claims 4 and 6 on claim 1, the applicants' comments above with respect to the primary reference of Maurer are similarly applicable here. As such, even if, *arguendo*, the teachings of the cited prior art references can be combined in the manner suggested by the Examiner, such combined teachings would still fall far short in fully meeting the applicants' claimed invention, as recited in claims 4 - 6, which depend from claim 1. Thus, a person of ordinary skill in the art would not have found the applicants' claimed invention obvious based on the teachings of the cited prior art references, singly or in combination.

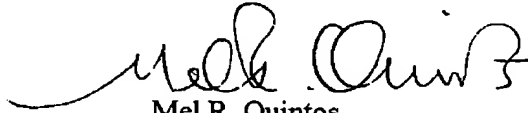
In view of the above, the withdrawal of the outstanding rejection under 35 USC §103(a) based on Maurer et al. in view of Rose et al. (U.S. Patent No. 4,958,970) is in order, and is therefore respectfully solicited.

If, for any reason, it is felt that this application is not now in condition for allowance, the Examiner is requested to contact Applicants' undersigned attorney at the telephone number indicated below to arrange for an interview to expedite the disposition of this case.

In the event that this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. Please charge any fees for such an extension of time and any other fees which may be due with respect to this paper, to Deposit Account No. 01-2340.

Respectfully submitted,

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Enclosures: Replacement Sheets of Drawings (Figs. 23(a1) and 23(a2)
through 23(d1) and 23(d2), and Figs. 24(a), and 24(b))
Annotated Sheets of Drawings Showing Changes